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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/824,878	04/04/2001	Mihai Rasidescu	P 276825 RP-00208-US4	3371
909	7590	01/23/2004	EXAMINER	
PILLSBURY WINTHROP, LLP P.O. BOX 10500 MCLEAN, VA 22102			CULBRETH, ERIC D	
			ART UNIT	PAPER NUMBER
			3616	

DATE MAILED: 01/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/824,878

Applicant(s)

RASIDESCU ET AL.

Examiner

Eric D Culbreth

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-136 is/are pending in the application.
- 4a) Of the above claim(s) 18,20,41,43,124 and 128 is/are withdrawn from consideration.
- 5) ☒ Claim(s) 50-97,99-120 and 131-134 is/are allowed.
- 6) ☒ Claim(s) 1,4-17,19,23,28-40,42,44-49,98,121-123,125-127,129,130,135 and 136 is/are rejected.
- 7) ☒ Claim(s) 2,3,21,22 and 24-27 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Allowable Subject Matter

1. Claims 50-97, 99-120, 131 and 132-134 are allowed.
 2. Claims 2-3, 21-22 and 24-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
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Claim Rejections - 35 USC § 103

3. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
4. Claims 1, 4-6, 9, 17, 19, 23, 28-29, 32, 42, 44-48, 98, 121-123, 125-127, 129-130 and 135-136 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernardi in view of Sheffer (both of record).

Bernardi discloses a frame member 10 with suspension mounting points for outboard wheels 18, 50 in Figure 1 (the brackets above and below part 19 being the first suspension mounting points, the bracket on frame 10 to which arms 22 are mounted having the second suspension mounting points), the frame 10 extending from the first to the second suspension mounting point. The front suspension points position wheels 18, 18 so that their axis of rotation when steered straight ahead is rearward of the forwardmost portion of frame 10. Sheffer discloses as an object of the invention providing a motorcycle or the like that traverses rough

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terrain (column 1, lines 25-35) with an upper platform or frame member 18, lower frame member or floor 25, first cross member 24 and second cross member 22 extending between the frame members to form a closed perimeter with an engine receiving space, suspension mounting points associated with at least one of the frame and cross members (where brackets 90 and 132 are mounted), and at least one of the members 18, 25 along the frame centerline from one mounting point to the other. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bernardi to include an engine and frame arrangement such as that taught by Sheffer in order to lower the center of gravity, steer and guide at any rate of speed, and use a minimum number of parts in construction (Sheffer, column 1, lines 40-55) (claim 1). As Sheffer is for motorcycles, bicycles and like vehicles that encounter rough terrain, it would include vehicles with outboard wheels such as Bernardi's, which is an all terrain vehicle (for off road, as per the last three lines of Bernardi's abstract). Sheffer's mounting points are on the lower longitudinal frame member 25 in the combination, which would be a teaching to place the first and second outboard wheel suspension points on the surface of the lower frame member (claim 4). Similarly, in the combination floor 25 is of rectangular cross section (claims 5-6). Also in the combination Sheffer's members 18 and 25 are vertically aligned (claim 9) and rear suspension mounting structure (Bernardi's mountings for the rear springs) would be rigidly mounted to the outboard wheel suspension mounting points on the frame in keeping with Sheffer's rear suspension mounting structure 132 rigidly mounted to one of the suspension mounting points (claim 19). Noting claim 17, in the combination Sheffer's frame member 25 is bent toward frame member 18 to form cross member 24. In the combination Sheffer meets the limitations of claims 121-123 and 125-127 that have not been discussed above (the upper and

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lower and cross members are in aligned in a central vertical longitudinal plane). In regard to claim 129, Bernardi, the primary reference, teaches pivot axes at suspension points above and below member 19 with longitudinal axes parallel to the longitudinal centerline of the frame. Finally, regarding claim 135, Bernardi, the primary reference, teaches the axis of rotation of front wheels 18 as between the ends of the frame 10.

Regarding claim 23, Bernardi's handlebar 15 would steer at least one of the wheel. The features of claims 28-29, 32, 42, 130 and 136 are discussed in various rejections above.

Bernardi teaches forward and rearward suspension subsystems mounted at the suspension points (claim 44), and in the combination Sheffer's suspension is semi or non independent as broadly recited because of the torsion bars 94, 122 connected to the front and rear arms as well as the floor 25 (claims 46-47).

Bernardi's rear suspension is fully independent, and in the combination Sheffer teaches the swing arm suspensions connected to the exterior of the lower frame member at 102 and 28 (claims 45 and 48-49).

Bernardi teaches front a-arms that would be attached to the lower frame by mounts (claim 98).

5. Claims 10-15 and 33-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernardi in view of Sheffer as applied to claim 1 above, and further in view of Tsukahara et al (of record).

Tsukahara et al discloses the forward portion of a longitudinal frame member bent upwardly from the horizontal in front of the area supporting the engine (the support module as

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broadly recited). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bernardi and Sheffer to include the forward portion of the lower frame member bent upwardly as taught by Tsukahara et al in order to support a suspension (column 2, lines 26-39 of Tsukahara et al). The angle of the horizontal is an obvious matter of design choice (claim 14-15), as there is no stated reason or particular purpose in the specification for the particular angles given and the invention would appear to work just as well with angles similar to that of the prior art. In the combination (claims 10-12) Tsukahara et al teaches upper and lower longitudinal frame members and cross members of identical shape and size in cross section with a uniform cross section throughout a length thereof.

The features of claims 33-38 are discussed above.

6. Claims 7-8, 16, 30-31, and 39-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bernardi and Sheffer as applied to claims 1 and 5 above, and further in view of Itoh et al (of record).

Itoh et al teaches laterally extending members 22 on the upper frame that connect the seat. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Bernardi and Sheffer to include seat mounting structure such as taught by Itoh et al in order to mount the seat to the upper frame of the vehicle. Regarding claims 7-8, Itoh et al teaches an ellipsoid shape in Figure 13 as a structural equivalent to a rectangular cross section in the combination. Making the cross section oval would be an obvious matter of design choice, as the specification gives no stated reason or particular reason for the oval shape, and such an oval shape would appear to work just as well as Itoh et al's elliptical shape. The features of claims

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30-31 and 39 are included in the discussion above. Regarding claim 40, in the combination Itoh et al's upper frame is bent toward the lower frame at the rear end in Figure 12.

Conclusion

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bruehl and Grinde et al show semi-independent suspensions (column 2, lines 15-16 of Bruehl).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eric D Culbreth whose telephone number is 703/308-0360. The examiner can normally be reached on Monday-Thursday, 9:30-7:00 alternate Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul Dickson can be reached on 703-308-2089. The fax phone number for the organization where this application or proceeding is assigned is 703/746-3508.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

Eric D Culbreth
Primary Examiner
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